

AO 91 (Rev. 01/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the
District of New MexicoUnited States of America
v.

Kevin Omar NUYENS-Machic

Case No: 25- 970 MJ

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about the date of April 25, 2025 in the county of Dona Ana in the State and District of New Mexico, the defendant violated 50.8 U.S.C. §797(Penalty for Violations of Security Regulations and Orders), 1325(a)(1)(EWI Misdemeanor), an offense described as follows:

Title 50 United States Code 797 prohibits the willful violation of any defense property security regulation. Section 797 defines a "defense property security regulation" as a property security regulation that pursuant to lawful authority

This criminal complaint is based on these facts:

The term "Department of Defense property" means property subject to the administration or in the custody of the Department of Defense. On April 15, 2025, the Department of Interior transferred Federal lands including the approximately 60-foot strip of land contiguous to and parallel with the international border between the United States and Mexico (the "Roosevelt Reservation") in Dona Ana, Luna and Hidalgo Counties in New Mexico to the jurisdiction of the Department of the Army. See Public Land Order No. 7963. On April 18, 2025, the Secretary of the Army assigned the above-described Federal lands to United States Army Garrison Fort Huachuca for use as National Defense Areas (hereinafter NM National Defense Areas). U.S. Army General Order No. 2025-10.

☒ Continued on the attached sheet.

Sworn to before me via phone. and signed in my presence.

Date: April 29, 2025

City and state: Las Cruces, N.M.

S8
Complainant's signature

Saul H. Mendez, Agent

Printed name and title

[Signature]
Judge's signature

Gregory J. Fouratt, United States Magistrate Judge

Printed name and title

CONTINUATION OF CRIMINAL COMPLAINT

STATE AND DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA

V.

Kevin Omar NUYENS-Machic

Continuation of Statement of Facts:

On April 18, 2025, the military commander at Fort Huachuca issued a security regulation designating the NM National Defense Areas as both a restricted area and a controlled area under Army Regulation 190-13 prohibiting the unauthorized entry into the National Defense Areas.

On April 25, 2025, when illegally entering the United States from Mexico in Dona Ana County, New Mexico, Defendant Kevin Omar NUYENS-Machic willfully violated the security regulation prohibiting unauthorized entry of property subject to the administration or in the custody of Fort Huachuca by his unauthorized entry into the NM National Defense Areas. In the location in which Defendant Kevin Omar NUYENS-Machic illegally crossed into the United States from Mexico, signs were posted and visible along the NM National Defense Areas stating in both English and Spanish that this is a restricted area and that unauthorized entry is prohibited.

On April 25, 2025, Border Patrol Agents from the Santa Teresa, New Mexico Border Patrol Station encountered the defendant in Dona Ana County, New Mexico. The defendant was questioned as to his citizenship to which he stated that he was a citizen and national of Guatemala, illegally present in the United States. Agents determined the defendant illegally crossed the boundary between the United States and Mexico on April 25, 2025, approximately two mile west of the Santa Teresa, New Mexico Port of Entry. The defendant did not present himself through a lawful Port of Entry; therefore, he was not admitted or paroled by an Immigration Officer.

Continuation of Statutory Language:


(a)(2)(A) shall be or has been promulgated or approved by the Secretary of Defense (or by a military commander designated by the Secretary of Defense or by a military officer, or a civilian officer or employee of the Department of Defense, holding a senior Department of Defense director position designated by the Secretary of Defense) for the protection or security of Department of Defense property"

(a)(3)(A) relating to . . . the ingress thereto or egress or removal of persons therefrom.

entered and attempted to enter the United States at a time and place other than as designated by Immigration Officers



Signature of Judicial Officer



Signature of Complainant
Mendez, Saul H.
Filing Agent